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ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OGC-2019-0519; FRL 9999-62-OGC]

Proposed Settlement Agreement, Challenge to Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (“CAA” or the “Act”), notice is hereby given of a proposed settlement agreement to resolve petitions for review filed by United States Steel Corporation (“U.S. Steel”) with respect to U.S. Steel’s Minntac taconite facility, involving several actions taken by EPA with regard to nitrogen oxide (NO_x) emission limits for Minntac. On November 29, 2013, June 13, 2016, and February 1, 2018, U.S. Steel filed petitions in the United States Court of Appeals for the Eighth Circuit challenging EPA’s 2013 Regional Haze (RH) Federal Implementation Plan (FIP) for Minnesota and Michigan; 2013 RH State Implementation Plan (SIP) partial disapprovals for Michigan and Minnesota; 2016 revised RH FIP for Michigan and Minnesota; and EPA’s denial of U.S. Steel’s petitions for reconsideration of the 2013 FIP, 2013 SIP partial disapprovals, and 2016 revised FIP. The Settlement Agreement would resolve U.S. Steel’s challenges to these actions, with respect to Minntac. Under the proposed settlement agreement, the parties agree to take certain specified actions.

DATES: Written comments on the proposed settlement agreement must be received by **insert date 30 days after date of publication in the Federal Register**.

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC-2019-0519, online at www.regulations.gov (EPA’s preferred method). For comments submitted at

www.regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Stacey Simone Garfinkle, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone: (202) 564-3103; email address: garfinkle.stacey@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional information about the proposed settlement agreement.

The proposed Settlement Agreement would resolve U.S. Steel’s challenges, with respect to Minntac, to the following actions: 2013 RH FIP Rule, 78 FR 8,706 (February 6, 2013); 2013 RH SIP partial disapprovals for Michigan and Minnesota, 78 FR 59,825 (September 30, 2013);

2016 revised RH FIP for Michigan and Minnesota, 81 FR 21,672 (April 12, 2016); and EPA's denial of U.S. Steel's petitions for reconsideration of the 2013 FIP, 2013 SIP partial disapprovals, and 2016 revised FIP, 82 FR 57,125 (December 4, 2017). *See United States Steel Corporation v. EPA*, Case Nos. 13-3595 (8th Cir. filed November 29, 2013), 16-2668 (8th Cir. filed June 13, 2016), and 18-1249 (8th Cir. filed February 1, 2018).

The proposed Settlement Agreement would require EPA to propose a combined facility-wide NO_x emission limit of 1.6 lbs NO_x/MMBtu, based on a 30-day rolling average, for Minntac Lines 3 through 7. This limit would apply regardless of the fuel used. Under the terms of the proposed Settlement Agreement, EPA agrees to propose amendments to 40 CFR part 52 that, if finalized, would require U.S. Steel to begin complying with the new facility-wide limit for Minntac beginning with the 30-day period between September 1, 2019 and September 30, 2019, at the latest. The facility-wide NO_x emission limit would replace the individual NO_x emission limits currently required for each of Minntac's five lines pursuant to the 2013 RH FIP Rule. The proposed Settlement Agreement also provides that nothing in the terms of the proposed Settlement Agreement shall be construed to limit or modify the discretion accorded EPA by the Clean Air Act or by general principles of administrative law. See the proposed Settlement Agreement for specific details.

For a period of thirty (30) days following the date of publication of this action, the Agency will accept written comments relating to the proposed Settlement Agreement from persons who are not named as parties or intervenors to the litigation in question. EPA may withdraw or withhold consent to the proposed Settlement Agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or

inconsistent with the requirements of the Act.

II. Additional information about commenting on the proposed settlement agreement.

A. How can I get a copy of the settlement agreement?

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2019-0519) contains a copy of the proposed settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through www.regulations.gov. You may use www.regulations.gov to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select “search.”

It is important to note that EPA’s policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at www.regulations.gov without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA’s policy is that copyrighted material, including

copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket.

Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the www.regulations.gov website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to

EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through www.regulations.gov, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: September 4, 2019.

Gautam Srinivasan,
Acting Associate General Counsel.
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